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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Hyung Joon KIM,

Petitioner,

v.

Tom RIDGE, et. al.

Respondents.

Case No. C 04-0341 SI

**STIPULATION TO TRANSFER
PETITION FOR WRIT OF
HABEAS CORPUS TO NINTH
CIRCUIT COURT OF APPEALS;
AND ~~PROPOSED~~ ORDER
TRANSFERRING CASE**

1 Petitioner filed a petition for writ of habeas corpus on January 26, 2004 challenging the
2 Board of Immigration Appeals ("BIA") decision in his immigration case. The Court ordered
3 discovery and discovery has now been fully completed. The parties are scheduled to appear before
4 the court for a status conference today, August 3, 2005.

5 The parties will appear at the status conference to answer any questions the Court may have
6 and to explain their reasoning but agree that transfer to the U.S. Court of Appeals for the Ninth
7 Circuit is now appropriate in this matter. Pursuant to section 106(c) "Real ID Act of 2005," Pub. L.
8 No.109-13, 119 Stat. 231 (May 11, 2005), petitions for writs of habeas corpus challenging decisions
9 of removal that were pending at the time of the enactment of the REAL ID Act shall be transferred
10 to the Court of Appeals for the circuit in which a petition for review could have been properly filed
11 under 8 U.S.C. § 1252(a), as amended by the REAL ID Act. See REAL ID § 106(c). The Court of
12 Appeals shall treat the transferred case as a petition for review, except that the time requirements
13 for filing a petition for review shall not apply. Id.

14 At least some of the issues currently before this Court in this petition can be addressed by
15 the Court of Appeals under the REAL ID amendments. The parties therefore agree that transfer is
16 appropriate pursuant to REAL ID § 106(c) for the Court of Appeals to address any issues it can.
17 The parties stipulate that, subject to Court approval, the stay of removal ordered by the Court, and
18 the agreement that Petitioner shall remain outside of Respondent's custody, shall remain in effect
19 while the case is pending before the Court of Appeals.

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22 Dated: August 3, 2005

Respectfully submitted,

23 /s/

24 EDWARD A. OLSEN
25 Assistant United States Attorney
26 Attorney for Respondents

27 /s/

28 Date: August 3, 2005

MARC VAN DER HOUT
Van Der Hout, Brigagliano & Nightingale, LLP
Attorney for Petitioner

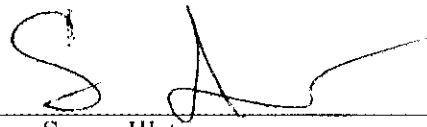
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5 I declare under penalty of perjury that concurrence in the filing of this document has been obtained
6 from Edward Olsen.

7 Dated: August 3, 2005

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_____/s/
MARC VAN DER HOUT

Pursuant to stipulation, IT IS SO ORDERED.

Date: 8/3/05



Hon. Susan Illston
United States District Judge